IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO. 2976 OF 2006

Nabi Ahmed S/o Noor Mohammed & Ors..... Petitioners.
Versus
Anis Ahmed s/o Mohammed Junaid & Ors....Respondents.

Mr. A.N.Maniyar for the petitioners.
Mr.Harendra Toor i/by Mr. R.M.Vanoo
for Respondent No.1.

CORAM : R. M. LODHA, and
SMT.NISHITA MHATRE, JJ.

DATED : 12TH JANUARY, 2007.

P.C.:

We heard the Counsel for the petitioners, perused the writ petition and the documents annexed thereto.

2. The Counsel for the petitioners does not dispute that prior to the present writ petition, a suit was filed by the petitioners before the City Civil Court, which was withdrawn on 15th December, 2006 and liberty was granted to the petitioners to file fresh suit, if so advised. He submits that instead of presenting suit, the petitioners have approached this Court in extra ordinary jurisdiction as according to them a fresh cause of action has occurred to them and that can be redressed in extra ordinary jurisdiction.

3. We are afraid the writ petition raises diverse question of fact which if traversed shall have to be determined in the ordinary civil suit. We find nothing extra ordinary in the matter which deserves extra ordinary remedy under Article 226 of the Constitution of India. Petitioners' grievance can be adequately redressed in the ordinary civil proceeding.

4. Writ Petition does not deserve to be entertained and is dismissed in limine.

Sd/-

(R. M. LODHA, J.)

Sd/-

(SMT.NISHITA MHATRE, J.)